



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.6665 & 6668 of 2021
and WMP.Nos.7215 & 7217 of 2021

R.Swaminathan .. Petitioner in W.P.No.6665 of 2021
K.Pradeep .. Petitioner in W.P.No.6668 of 2021

vs.

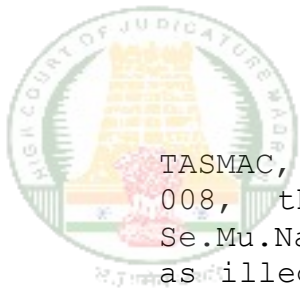
1.The Managing Director,
TASMAC, Head Office,
4th Floor, CMDA Tower,
Egmore, Chennai-600 008.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited,
LLA Building, 4th Floor,
No.735, Anna Salai, Chennai-600 002.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Tiruvallur District. .. Respondents in both W.Ps.

Prayer in W.P.No.6665 of 2021: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order by the Managing Director, TASMAC, Head Office, 4th Floor, CMDA Tower, Egmore, Chennai-600 008, the first respondent herein vide his proceedings in Se.Mu.Na.Ka.No.R1/000540/2020 dated 16.03.2020 and quash the same as illegal, arbitrary, unreasonable being violative of Rules and Principles of Natural Justice and thereby direct the respondents to reinstate the petitioner in service with all service, monetary and attendant benefits.

Prayer in W.P.No.6668 of 2021: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order by the Managing Director,



TASMAC, Head Office, 4th Floor, CMDA Tower, Egmore, Chennai-600 008, the first respondent herein vide his proceedings in Se.Mu.Na.Ka.No.R1/000539/2020 dated 16.03.2020 and quash the same as illegal, arbitrary, unreasonable being violative of Rules and Principles of Natural Justice and thereby direct the respondents to reinstate the petitioner in service with all service, monetary and attendant benefits.

In both W.Ps.

For Petitioner

: Mr.A.R.Suresh

For Respondents

: Mr.M.K.Sathish Kumar

Standing Counsel.

COMMON ORDER

By consent, these Writ Petitions are taken up for final disposal.

2. The case of the petitioners is that they are working as Salesman in TASMAC Shops from the year 2004 and while so, on 03.03.2012, the Central Investigating Unit consisting of the Assistant Commissioner, Prohibition and Excise, District Manager, Thiruvallur and the Inspector of Police conducted spot inspection at Shop.No.9028, Chevvaipettai, Thiruvallur District and they said to have found certain irregularities by selling adulterated liquor mixed with water. Based on the Inspection Report, the petitioners were placed under suspension on 15.03.2012 and on 17.05.2012. The petitioners were issued with a Charge Memo, for which they submitted their explanation denying the charges. Subsequently, enquiry was conducted and based on Enquiry Officer's Report, the petitioners were removed from service by the third respondent/District Manager, vide order dated 19.10.2012. Against the order of dismissal, the petitioners preferred an appeal before the second respondent, who had also confirmed the order of removal, vide order dated 20.11.2014. Against the same, revision was also filed and since the revision was kept pending without passing any orders, the petitioners had filed W.P.No.22028 of 2018 and pursuant to the orders passed by this Court dated 25.11.2019, the first respondent/revisional authority had dismissed the revision petition filed by the petitioners, confirming the order of the appellate authority and the disciplinary authority removed the petitioners from service. Challenging the order of the first respondent/revisional authority, the petitioners have filed the present writ petitions.

3. The learned counsel for the petitioners submitted that a similar placed person, namely G.Nala Chakravarthy / Salesman,



who has also been charged on the very same allegation of adulterating liquors by mixing with water was removed from service and after exhausting all appeal and revision remedies, he had filed W.P.No.29443 of 2013 and this Court, vide order dated 14.09.2020 has allowed the said writ petition by relying upon the similar order of this Court in W.P.No.41335 of 2016, by setting aside the punishment order and directed to reinstate the petitioner therein into service and therefore, prays that the petitioners, who are also similarly placed, are entitled to similar relief.

4. Heard Mr.K.Sathishkumar, learned Standing Counsel for the respondents and also perused the materials placed on record.

5. It is not in dispute that the petitioners were removed from service for committing certain irregularities in TASMAL shops by adulterating liquor by mixing with water and removed from service after conducting disciplinary proceedings and the order of removal from service was also confirmed by the appellate authority as well as the revisional authority.

6. In the writ petition filed by a similarly placed person in WP.No.29443 of 2013, this Court, vide order dated 14.09.2020, had passed the following order :

"6..... The case against the petitioner herein as well as the petitioner in W.P.No.41335/16 are identical and such being the case, this Court is of the view that the petitioner should be allowed to make a representation before the third respondent for consideration of the same in accordance with the orders passed in W.P.No.41335/16. In such view of the matter, fact that I am inclined to issue a direction to the petitioner to make a fresh representation before the 3rd respondent within a period of 2 weeks from the date of receipt of a copy of this order by annexing the order of this Court and on receipt of the order by annexing the order of this Court and on receipt of the said representation, the 3rd respondent is directed to consider the same in the light of the order passed in W.P.No.41335/2016, within a period of 3 months thereafter."

7. The petitioners have also filed undertaking affidavits before this Court undertaking that if the impugned orders are set aside, they will not claim any monetary benefit from 19.10.2012 to 10.03.2022 and the said undertaking affidavits are placed on record.



8. In view of the above, the impugned orders of the first respondent in proceedings in Se.Mu.Na.Ka.No.R1/000540/2020 & Se.Mu.Na.Ka.No.R1 /000539/2020 dated 16.03.2020 are set aside and the respondents are directed to reinstate the petitioners into service in the light of the orders passed in W.P.No.41335 of 2016 dated 27.02.2018 and by taking into consideration the undertaking submitted by the petitioners that they will not claim any monetary benefits from 19.10.2012 to 10.03.2022 and shall pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.

9. The Writ Petitions stand allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

Jvm

To

1.The Managing Director,
TASMAC, Head Office,
4th Floor, CMDA Tower,
Egmore, Chennai-600 008.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited,
LLA Building, 4th Floor,
No.735, Anna Salai, Chennai-600 002.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Tiruvallur District.

+2cc to Mr.A.R.Suresh, Advocate SR.No.16798, 16799

W.P.Nos.6665 & 6668 of 2021

MT(CO)
CB(25/03/2022)